SUPREME COURT, U. S.

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FILED

JAN 31 1974

MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-971

D. C. TRANSIT SYSTEM, INC., *Petitioner*

v.

DEMOCRATIC CENTRAL COMMITTEE OF THE DISTRICT OF COLUMBIA,

BLACK UNITED FRONT,

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION, *Respondents*

MEMORANDUM OF THE DEMOCRATIC CENTRAL COMMITTEE OF THE DISTRICT OF COLUMBIA OPPOSING CERTIORARI

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PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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The three cases in which petitioner, D. C. Transit System Inc. (intervenor below) seeks certiorari were part of a group of ten cases involving the same petitioner which the United States Court of Appeals for the District of Columbia, in recognition of their interrelatedness, heard on the same day several years ago. Nine of these ten cases were subsequently decided on June 28, 1973 in six separate, but extensively cross-referenced opinions.

Opinion	Case	US App. DC No.
1	Powell v. Washington Metropolitan Area Transit Commission, reviewing Commission Order 773 entered January 26, 1968	21,750
2	Democratic Central Committee of the District of Columbia, et al. v. Washington Metropolitan Area Transit Commission, also reviewing Commission Order 773	21,865
3	Democratic Central Committee of the District of Columbia v. Washington Metropolitan Area Transit Commission, reviewing Commission Orders 880 and 882 entered October 18 and October 29, 1968	22,450
4	Bebchick v. Washington Metropolitan Area Transit Commission, reviewing Commission Order 981 entered October 17, 1969	23,720
	and	
	D. C. Transit System Inc. v. Washington Metropolitan Area Transit Commission, reviewing the same order 981	23,747
5	D. C. Transit System Inc. v. Washington Metropolitan Area Transit Commission, reviewing Commission Order 984	23,958
6	Democratic Central Committee of the District of Columbia et al. v. Washington Metropolitan Area Transit Commission, reviewing Commission Order 1052 (other aspects of this order were affirmed in D. C. Transit System Inc. v. Wash-	

Opinion	Case	US App. DC No.
	ington Metropolitan Area Transit Commission, 146 US App. DC 392, 452 F2d 1321 (1971))	24,398
	and	
	District of Columbia v. Washington Metropolitan Area Transit Commission, reviewing the same Order 1052	24,415
	and	
	Black United Front v. Washington Metropolitan Area Transit Commission, reviewing the same Order 1052	24,428.

The tenth case argued with these, *Democratic Central Committee of the District of Columbia, et al.* v. *D. C. Transit System Inc.,* No. 23,795, was decided prior to the nine cases disposed of in the six opinions of June 28, 1973 listed above.

There is some question at the outset of the wisdom of undertaking a piecemeal review of this exquisitely involved complex of litigation, especially since so many of D.C. Transit's present complaints are rooted in a stormy and litigious regulatory history only partially revealed by the two opinions reproduced in petitioner's appendix (2a-7a, 35a-38a, 130a-141a, 145a *et seq.*).

Nevertheless, considering these two opinions, it clearly appears that no substantial constitutional questions are presented and that the Petition for Certiorari involves only matters of local law interpretation with which this Court is not concerned (26a-74a).

The absence of any constitutional issue is amply demonstrated by Judge McKinnon's dissenting views in No. 21,865 upon which petitioner relies so heavily.

The issue he takes with the majority is not that their treatment of land appreciation is unreasonable nor particularly novel considering the weight of precedent supporting the majority view and the lack of precedent for the distinction urged in the dissent (7a-26a, 97a-103a). His point is simply that "the policy of judicial deference to agency actions" required upholding the Commission's order (96a-97a).

Analysis of agency practice and extensive local history and precedent constitute the warp and woof of both the majority and dissenting opinions in these cases (50a-74a, 103a-126a, 141a-157a).

The Petition for Certiorari should therefore be denied.

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Proof of Service

I hereby certify that a copy of the foregoing Memorandum of the Democratic Central Committee of the District of Columbia Opposing Certiorari was mailed, postage prepaid, this 31st day of January, 1974 to E. Barrett Prettyman, Jr., and Samuel R. Burger, Counsel to Petitioner, 815 Connecticut Avenue, N.W., Washington, D.C. 20006; Jack E. McGregor and Edward A. Caine, Counsel to Potomac Electric Power Company, amicus curiae, 1900 Pennsylvania Avenue, N.W., Washington, D.C. 20006; Samuel S. Hollingsworth and Paul H. Ford, Counsel to Washington Gas Light Co., amicus curiae, 1100 H Street, N.W., Washington, D.C. 20005; Gilbert Hahn, Jr., Counsel to Respondent Black United Front and Donald J. Balsley, Counsl to Respondent Washington Metropolitan Area Transit Commission, 1625 I Street, N.W., Washington, D.C. 20006.

LANDON GERALD DOWDEY